

STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF RIVER ROUGE

ORDINANCE NO. 16-461-7

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES,
CITY OF RIVER ROUGE, MICHIGAN, BY
AMENDING/REPLACING **CHAPTER 16 – MEDICAL
MARIHUANA FACILITY LICENSING** OF TITLE 5 - *BUSINES
LICENSES AND REGULATIONS*, OF SAID CODE.

THE CITY OF RIVER ROUGE ORDAINS:

SECTION 1. Chapter 16 of Title 5 of the River Rouge Code of Ordinances shall be amended by replacing the entire Chapter and shall read as follows:

***CHAPTER 16 – MEDICAL MARIHUANA FACILITIES AND MARIHUANA
ESTABLISHMENTS***

Sec. 5-1601 - Legislative Intent.

The City intends to issue licenses and regulate marihuana facilities and marihuana establishments to the extent they are licensed under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et. seq. The City does not intend that licensing and regulation under this Chapter be construed as a finding that such facilities comply with any law. By requiring a license and compliance with the requirements of this Chapter, the City intends to protect the public health, safety and welfare.

Sec. 5-1602 - Definitions.

(1) Words and phrases contained in the Michigan Medical Marihuana Facilities Licensing Act (MMFLA), MCL 333.27101 et seq., the Michigan Medical Marihuana Act (MMMA), MCL 333.26421 et. seq., the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951 et. seq., and the rules or emergency rules promulgated pursuant to any of these Acts, shall have the same meanings in this Chapter.

(2) For purposes of the requirements for obtaining a license under this Chapter, the terms “facility” and “marihuana facility” are intended to include both a “marihuana facility” as defined in the MMFLA and a “marihuana establishment” as defined in the MRTMA.

(3) Additionally, the following words as used in this Chapter setting forth the requirements for obtaining a City license have the following meanings:

- (a) *Applicant* means a person who applies for a City license.
- (b) *Authorized person* means:
 - (i) An owner of a facility;
 - (ii) The directors, officers, members, partners, and individuals of a facility that is a corporation, limited liability company, partnership, or sole proprietorship;
 - (iii) Any person who is in charge of and on the premises of the facility during business hours.
- (c) *City license or license* unless the context requires a different meaning, means a valid license that is issued under this Chapter.
- (d) *Facility* means a "marihuana facility" as defined in the MMFLA and a "marihuana establishment" as defined in the MRTMA.
- (e) *Grower* means a person who cultivates and sells marihuana to other facilities, as licensed by the MMFLA and the MRTMA, which includes all of the following:
 - (i) *Class A grower*, which is a maximum of 500 plants under the MMFLA and 100 plants under the MRTMA.
 - (ii) *Class B grower*, which is a maximum of 1,000 plants under the MMFLA and 500 plants under the MRTMA.
 - (iii) *Class C grower*, which is a maximum of 1,500 plants under the MMFLA and 2,000 plants under the MRTMA.
 - (iv) *Excess marihuana grower*, which is a person to whom the state has issued 5 class C marihuana grower licenses under the MRTMA (2,000 plants each).
- (f) *Marihuana* means "marihuana" as defined in the MMFLA and as defined in the MRTMA.
- (g) *Marihuana event organizer* means a person licensed to apply for a temporary marihuana event license under these rules.
- (h) *Medical Marihuana Facilities Licensing Act or MMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and the rules or emergency rules promulgated pursuant to the MMFLA.

- (i) *Michigan Medical Marihuana Act* or *MMMA* means the Michigan Medical Marihuana Act, MCL 333.26421 et seq., and the rules or emergency rules promulgated pursuant to the MMMA.
- (j) *Michigan Regulation and Taxation of Marihuana Act* or *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., and the rules or emergency rules promulgated pursuant to the MRTMA.
- (k) *Licensee* means a person holding a City license under this Chapter.
- (l) *Person* means the individuals and entities included in the definition of "person" in the MMFLA and the MRTMA.
- (m) *Processor* means a person who operates as a "processor" as defined in the MMFLA or a "marihuana processor" as defined in the MRTMA or as both at the same location under common ownership.
- (n) *Provisioning Center/Retailer* means a person who operates as a "provisioning center" as defined in the MMFLA or as a "marihuana retailer" as defined in the MRTMA or as both at the same location under common ownership.
- (o) *Safety compliance facility* means a person who operates as a "safety compliance facility" as defined in the MMFLA or a "marihuana safety compliance facility" as defined in the MRTMA or as both at the same location under common ownership.
- (p) *Secure transporter* means a person who operates as a "secure transporter" as defined in the MMFLA or a "marihuana secure transporter" as defined in the MRTMA or as both at the same location under common ownership.
- (q) *State license* means a valid state operating license issued under the MMFLA or a valid state license issued under the MRTMA or both.
- (r) *Temporary marihuana event license* means a state license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

Sec. 5-1603 - Marihuana facilities authorized.

Pursuant to the MMFLA and the MRTMA, the City of River Rouge authorizes the operation in the City of the following facilities, provided they possess a state license

or licenses and they comply with the additional requirements of the City of River Rouge, including, but no limited to, the City of River Rouge Zoning Ordinance and all other applicable codes, laws, rules, regulations and ordinances:

- (1) Grower.
- (2) Processor.
- (3) Provisioning Center/Retailer.
- (4) Secure transporter.
- (5) Safety compliance facility.

Sec. 5-1604 - City license required; number of licenses available.

- (1) No person shall operate a facility for which an annual license as provided for in this Chapter has not been issued. The maximum number of licenses available for each type of facility is as follows:
 - (a) Grower licenses — 8 licenses (multiple state licenses may be “stacked” at a single location and shall be deemed as 1 City license)
 - (b) Processor licenses — 8 licenses
 - (c) Secure transporter licenses — 1 license
 - (d) Provisioning Center/Retailer - 8 licenses
 - (e) Safety compliance facility licenses - 1 license
- (2) As of the effective date of the ordinance amendment that adds references to the MRTMA to this Chapter, an existing license to operate a provisioning center as defined in the MMFLA is deemed to be one of the maximum numbers of provisioning center/retailer licenses available. An existing license to operate a provisioning center as defined in the MMFLA, when properly renewed will be designated as a provisioning center/retailer license.
- (3) The license requirement in this Chapter applies to all facilities whether operated for profit or not for profit.
- (4) The license requirement in this Chapter shall be in addition to any other requirements imposed by any other state or local law, code, rule or regulation, including, but not limited to, state or local laws applicable to commercial entities performing functions similar to the functions performed by marihuana facilities and the City of River Rouge Zoning Ordinance.
- (5) The issuance of any license pursuant to this Chapter does not create an exception, defense or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or City ordinance.

(6) A license issued under this Chapter shall be valid for 1 year after the date of issuance. To renew an existing license, the licensee shall submit an application in the same manner as is required to apply for a new license no sooner than 90 days before the expiration date and no later than 60 days before the expiration date.

Sec. 5-1605 - General provisions; location of facilities.

(1) A license issued under this Chapter is valid only for the location of the facility and type of facility that is listed on the license application and is valid only for the operation of the facility at that location by the license applicant. Transfers of licenses and/or the relocation of any facility are prohibited without approval of the City Council.

(2) A license issued under this Chapter is valid only if the license holder also holds a valid current state license and a copy of the valid current state license has been provided to the City Clerk by the state license holder and is in compliance with all other requirements in this Chapter.

(3) The revocation of, suspension of, and placement of restrictions by the state on a state license apply equally to a license issued by the City.

(4) A license issued by the City under this Chapter, shall be conspicuously posted in the facility where it is easily open to public view.

(5) Acceptance of a license from the City under this Chapter constitutes consent by the licensee, owners, managers and employees to permit the City or designee, including, but not limited to, its building department staff and officials, and its public safety department, to conduct inspections of the facility to ensure compliance with this Chapter.

(6) Marihuana facilities shall be located as a permitted use in the B-1, B-2, M-1 and M-2 zoning districts, subject to the requirements of all applicable laws, codes, rules and regulations, including the City of River Rouge Zoning Ordinance.

(7) The location of a marihuana facility shall be no less than two-hundred and fifty (250) feet, measured door-to-door, from the following: a religious institution, a public park, a child care facility, a public or private educational facility including but not limited to pre-schools, nurseries, elementary, secondary and high schools.

Sec. 5-1606 - Application requirements for and issuance of City license.

(1) An application for a new annual license for a marihuana facility shall be submitted to the City Attorney on a form provided by the City, which shall include, but not be limited to, the following:

- (a) The name and address of the facility and any other contact information requested on the application form.
- (b) A copy of the articles of incorporation or other documents establishing the formation the applicant business entity.
- (c) The names of all “authorized persons”, as defined by Sec. 11-2(b), connected to the applicant and proposed facility, along with copies of government issued photo identifications for each authorized person.
- (d) A signed release executed by each “authorized person” permitting the City of River Rouge Police Department to perform a criminal background check.
- (e) The name and address of all owners of the real property where the facility is located.
- (f) A statement with respect to each “authorized person” identified in the application as to whether the person has:
 - (i) Ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 et seq., the federal law, or the law of any other state and, if so, the date of the conviction and the law under which the person was convicted;
 - (ii) Ever been convicted of any other type of felony under the law of Michigan, the United States, or another state, and, if so, the date of the conviction and the law under which the person was convicted.
- (g) Proof of applicant's ownership or legal possession of the premises.
- (h) An affidavit that neither the applicant nor any “authorized person” of the applicant is in default to the City of River Rouge for any amounts owed, including, but not limited to, any outstanding taxes, special assessments, fines or fees.
- (i) The type of facility for which a license is requested at the location specified in the application, which, for purposes of obtaining a license under this Chapter, shall be one of the following:
 - i. Grower
 - ii. Processor
 - iii. Provisioning Center/Retailer
 - iv. Secure transporter
 - v. Safety compliance facility

For purposes of obtaining a City license, only one license application is required for each type of facility listed above at one location, regardless of whether the applicant intends to apply for or has applied for a state license under the MMFLA, the MRTMA or both, at the same location under common ownership. For purposes of this Chapter, a license issued for a facility at the location indicated in the application form authorizes the operation of the facility in compliance with the MMFLA, the MRTMA or both, as applicable.

- (j) If the application is for a grower's license, the maximum number of plants that the applicant intends to grow.
 - (k) A location area map showing the proposed facility and surrounding area that identifies the relative locations and the distances (closest property line to the subject facility's property line) between the facility and the following: a religious institution, a public park, a residential zoning district, a residential land use, a child care facility, a public or private educational facility including, but not limited to, pre-schools, nursery, elementary, secondary and high schools;
 - (l) A proposed site plan, floor plan and/or blueprints drawn to scale by a State of Michigan licensed engineer or architect of the proposed facility and/or the location of same within the building if a multi-tenant building, together with details of how it is separated from the other occupants of the same building;
 - (m) A description of the security plan for the facility.
 - (n) A detailed business plan;
 - (o) A complete copy of the applicant's State license application, including all documents, attachments and materials submitted along with the State license application; and,
 - (p) Payment of a non-refundable application fee, which shall be determined by resolution of the City Council.
- (2) Applications received by the City shall be reviewed by the City Attorney for completeness and then forwarded to the City Council for consideration. The City Council shall review the applications pursuant to a competitive process based upon the requirements of this Chapter, the qualifications and plan of the applicant, and the best interests of the City. Based upon that review, the City Council shall approve or deny an application. Upon receiving an approval from the City Council, the City Clerk shall issue a license to the applicant. All licenses issued are contingent upon the State of Michigan issuing a license for

the operation of the facility in accordance with State law and the payment of the required annual fee for each type of license, including both recreational and medical, to operate a facility in the City, which shall be determined by resolution of the City Council.

- (3) Licenses granted pursuant to the Chapter shall be for a term of one (1) year from the date of issuance of the license and require the payment of an annual license fee, which shall be determined by resolution of the City Council.
- (4) An application for renewal of an existing license shall be submitted no sooner than 90 days before the existing license expires and no later than 60 days before the expiration date and shall require payment of the annual fee to operate a facility in the City, which shall be determined by resolution of the City Council.
- (5) An amended application shall be submitted when there is a change in any information the license applicant was required to provide in the most recent application on file with the City and/or when there is a change in any information the license applicant was required to provide in the most recent application for a state license on file with the state of Michigan.

Sec. 5-1607 - Conduct of business at a facility.

- (1) A facility shall be conducted in compliance with the MMFLA, the MRTMA, the MMMA, the rules promulgated pursuant to any of these acts, and all other laws, rules, and regulations of the state of Michigan and the City of River Rouge.
- (2) All marihuana in any form kept at the location of the marihuana facility shall be kept within an enclosed, secured building and shall not be visible from any location outside of the building.
- (3) Marihuana facilities shall be closed for business, and no sale or other distribution of marihuana in any form shall occur upon the premises or be delivered to or from the premises, between the hours of 9:00 p.m. and 9:00 a.m.

Sec. 5-1608 - Prohibited acts.

It shall be unlawful for any person to:

- (1) Violate any provision of this Chapter or any condition of any license granted pursuant to this Chapter.
- (2) Produce, distribute or possess more marihuana than allowed by any applicable state or local law, rule or regulation.

(3) Produce, distribute or possess marihuana in violation of this Chapter or any other applicable state or local law, rule or regulation.

(4) Make any changes or allow any changes to be made in the operation of the facility as represented in the license application, without first notifying the City by amending its application.

Sec. 5-1609 - License revocation.

A license issued under this Chapter may be suspended or revoked by the City Council for any of the following violations:

(1) Any person whose name is on or is required to be on the license application is convicted of or found responsible for violating any provision of this Chapter;

(2) A license application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the City with any other false or misleading information related to the facility;

(3) Any person whose name is on or is required to be on the license application is convicted of a crime which, if it had occurred prior to submittal of the application, could have been cause for denial of the license application;

(4) Marihuana is dispensed on the business premises in violation of this Chapter or any other applicable state or local law, rule or regulation;

(5) The facility is operated or is operating in violation of the specifications of the license application, any conditions of approval by the City or any other applicable state or local law, rule or regulation.

(6) The City, the county, or any other governmental entity with jurisdiction, has closed the facility temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this Chapter or other applicable state or local laws related to public health and safety.

(7) The facility is determined by the City to have become a public nuisance.

(8) The facility fails to open for business within six (6) months of receiving a license from the City pursuant to this Chapter.

(9) The facility ceases to operate for a period of six (6) months.

(10) The facility's state license has been suspended or revoked.

Sec. 5-1610 – Appeal Process

If an applicant or licensee chooses to appeal a denial of a license or

revocation of a license the applicant or licensee shall file a written appeal with the City Clerk's office setting forth, in detail, the specific requirement or decision from which the appeal is made and shall provide the specific grounds on which the appeal is based. An appeal fee shall be submitted with the notice of the appeal. The appeal fee amount shall be set by City Council resolution and shall be nonrefundable. Appeals shall be filed within 30 days of the adverse action and/or decision being appealed. The City Council shall consider the appeal within thirty (30) days of the filing of the appeal.

Sec. 5-1611 - Revocation not exclusive penalty.

In addition to any remedies available at law, the City may bring an action for an injunction, public nuisance or other process against a person to restrain, prevent or abate any violation of this Chapter or other ordinance, code, statute or regulation. Any penalty or sanction imposed shall be in addition to the abatement of the violating condition, any injunctive relief, the revocation of any permit or license, or other process. Actual costs, including, but not limited to attorney fees, costs and expenses incurred by the City to enforce any injunctive order or abate any violation of this Code shall be assessed against a person determined to be in violation of the provisions of this Chapter.

Sec. 5-1612 - Penalty for violations.

Any person who violates a provision of this Chapter shall be responsible for a civil infraction punishable by a civil fine of not more than \$500.00, plus costs and all other remedies available by statute. Each day of violation shall be a separate violation.

Sec. 5-1613 – Applications to State for Special Licenses

A person who applies for a state license as a marihuana event organizer or for a temporary marihuana event, as those terms are defined in the MRTMA, shall comply with all City ordinances applicable to the type of activity for which a state license is sought.

SECTION 2. SEVERABILITY. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

SECTION 4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be effective upon the passage by

the City Council and the publication of the Ordinance in accordance with the Charter of the City of River Rouge and the statutes of the State of Michigan.